



WISCONSIN REGULATORY DIGEST

A Publication of the DEPARTMENT OF REGULATION AND LICENSING FOR AUCTIONEERS AND AUCTION COMPANIES

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Renewal of Registration

Auctioneer and auction company registrations will expire on December 31, 1998. The Department will send to registrants a renewal notice and information about the renewal process approximately 6 weeks before the renewal deadline. Registrants who wish to renew in a timely manner and be able to legally conduct auctions as of January 1, 1999, must submit their renewal application and the renewal fee (\$100 for auctioneers; \$41 for auction companies) to the Department by December 31, 1998. Registrants may submit their application later; however, if they do, they will have to pay a \$25 late filing fee and they will not be able to conduct or manage auctions until they actually have received a renewed registration. Any auctioneer (not an auction company) who submits a renewal application without the required evidence of completion of continuing education will receive a notice of having filed an incomplete application. The auctioneer's registration will not be renewed until the auctioneer

subsequently submits proof of having completed the continuing education.

Continuing Education

As you know, continuing education for auctioneers in Wisconsin is a one-shot affair. Those who are required to obtain it and who do so during 1997-98 will be done with it. Those who should have obtained it, but failed to do so, will be required to obtain it later, if they try to renew their registration. In all cases, registrants will be able to take the test-out exam in lieu of the continuing education classes. Note, however, that the following registrants will not be required to satisfy continuing education requirements:

- Persons who operate auction companies, provided they do not hold an auctioneer registration.
- Individuals who file an application for an initial auctioneer registration after the date on which renewal notices are sent to current registrants (approximately November 16, 1998).
- Individuals who were issued a temporary registration certificate and who file an application for a regular registration certificate after the date on which renewal notices are sent to registrants.

THE WISCONSIN AUCTIONEER BOARD

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Note that the continuing education requirements for temporary registrants have been a bit fuzzy until now. So have the procedures for obtaining a regular registration at the end of the temporary registration period. However, it must be understood that individuals who seek a temporary registration must file an application and a \$10 fee. The temporary registration is valid for up to one year and during that time the individual is required to take and pass the registration examination, in order to continue to be registered after the 1-year period. The individual must file a new application with a \$41 fee, in order to obtain a regular registration certificate.

Reciprocity of Registration

Wisconsin's reciprocity provisions have a 2-pronged approach. First, reciprocity by reciprocal agreement between Wisconsin and another state; second, reciprocity by virtue of the fact that the requirements for obtaining a certificate in another state are substantially equivalent to Wisconsin's.

Wisconsin has invited several states to enter into a reciprocal agreement. At this time we are close to an agreement with one other state. Meanwhile, some persons have received reciprocal registration in Wisconsin, because the laws of one or more states in which they hold a registration are substantially equivalent or more demanding than those in Wisconsin. Incidentally, Minnesota does not have laws substantially equivalent to Wisconsin's. Minnesota does not have statewide regulation by a state agency. Licenses or registration certificates are granted by counties. Some of our newer licensing staff did not understand these differences, and we had to backtrack on several registrations submitted by Minnesota applicants.

Hearing in Eau Claire

Five auctioneers attended a hearing in Eau Claire last September. The following issues were discussed:

- Bookkeeping and trust account requirements.
- Advertising requirements. Auctioneers stated that the requirements are unnecessary and too costly.
- Failure to pay an auctioneer. Some auctioneers stated that this is a problem and that they could benefit from some extra clout in the Statutes.
- Sales taxes. One person complained about an audit by the Department of Revenue and the fact that he had to pay a substantial penalty.
- Persons under the age of 18 calling auctions. Auctioneers requested that the law be changed, so that a person under the age of 18 would be permitted to call an auction in the presence of a registered auctioneer, without being registered.
- Unregistered practice. Some auctioneers complained about out-of-state companies which

come into Wisconsin and, without being registered, sell cheap products and then move on to another state.

- Sale of firearms. Some auctioneers stated that it is very difficult to ascertain that people purchasing a firearm at an auction are residents of Wisconsin. We suggested that they ought to make an announcement before calling bids on the firearm that only Wisconsin residents may purchase the firearm and that the auctioneer will be checking the driver's license of the purchaser to verify residency.

Legislative Changes

AB 617. This bill relates to exempting certain persons who are not at least 18 years of age from auctioneer registration requirements. It was introduced by Representative Sheila Harsdorf by request of the Department and the Auctioneer Board. A hearing was held by the Assembly Committee on Small Business and Economic Development, Representative Lorraine Seratti, Chair; however, the bill died at the end of the regular Legislative session.

Auctions on the Internet

Have you checked out a few auction Internet sites? Perhaps, you have read newspaper articles about auctions on the Internet. If so, you are probably starting to wonder how auctioneer registration requirements come into play.

The Auctioneer Board has had a brief discussion about these matters and concluded that the bottom line from the perspective of Wisconsin statutes and rules is that a Wisconsin auction company which conducts an auction on the Web must be registered in Wisconsin. On the other hand, an auctioneer or auction company which conducts an auction from another state and facilitates participation in the auction by Wisconsin consumers who submit bids on the Web is not required to be registered in Wisconsin.

There are more considerations than simply those pertaining to regulation. A body of law is emerging which pertains to personal jurisdiction in civil lawsuits. A few court decisions have identified factors which relate to whether a consumer in one state will be successful in establishing jurisdiction in a lawsuit against an auctioneer or auction company conducting an auction from another state on the Internet. As time goes by some of these issues will become clearer.

1997-98 CONTINUING EDUCATION REQUIREMENTS

All auctioneers whose registration certificate will expire on December 31, 1998, must satisfy the continuing education requirement during the 1997-98 biennium in order to renew their registration in a timely manner at the end of 1998.

There are two basic alternatives for completing the requirement:

ALTERNATIVE #1: Continuing Education Courses Approved by the Department

Three courses of at least 3 hours in length at a program provider ("school") approved by the Department. A course must be approved by the Department before a school may grant a certificate of attendance to a registrant.

- Course A Auction Contracts; Trust Accounts; Conduct
- Course B Registration Requirements; Advertising
- Course C Real Estate Auctions; Federal and State Laws Related to Auctions

Two course providers have been approved as of 9/1/97.

1. Wisconsin Auctioneers Association, 2468 N. High Point Rd., Middleton, WI 53562, (608) 836-6542.
2. Southeastern School of Auctioneering, 309 Eastview Rd., Pelzer, SC 29669, (864) 947-2000. This school presents courses in Greenville, SC; Chicago, IL; Alabama and Georgia.

ALTERNATIVE #2: Continuing Education Test-Out Exam

The test-out exam will be administered by the Department on an as-needed basis in Madison or, possibly, in some other communities, depending on applications received by the Department. Dates will also be determined by the number of applications. An exam brochure is available. Exam brochures and application information can be obtained by calling the Exam Center at (608) 266-2852. It describes the contents of the exam and the dates, times and places where the exam will be administered. The cost is \$43.

Disciplinary Actions

TERRY R. LOCKE	REPRIMANDED
NEENAH, WI	

Failed to apply professional principles and skills; failed to enter into a written contract prior to conducting an auction; and failed to comply with advertising requirements. Ordered to pay partial costs of this matter in the amount of \$300 and a forfeiture of \$200 within 30 days. Effective 10/27/97.

Open Investigations

The Auctioneer Board currently has 25 investigative files open against auctioneers or auction companies,

relating to possible violations of requirements pertaining to advertising, written contracts, the conduct of an auction and other requirements.

Administrative Rules

Instructors of the continuing education courses have learned from you, just as you have learned from them. They have listened to your comments about the cost of advertising requirements. The Auctioneer Board and Secretary Marlene Cummings have been discussing some changes to these requirements. So, stay tuned. We'll tell you more about this in the next issue of the Regulatory Digest. Meanwhile, you must comply with the current rules.

Department of Regulation and Licensing
Auctioneers and Auction Companies
P.O. Box 8935
Madison, WI 53708-8935

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(608) 266-5511

After dialing this number you are asked to press 1, 2, 3 or 4. For the following requests, please press numbers as noted:

Application Form	Press 11
Complaints Against Licensees	Press 12
Verification of Licensure & Name/Address Changes	Press 21
Application Processing & Requirements	Press 43

Visit the Department's Web Site

<http://badger.state.wi.us/agencies/drl/>
Send comments to dorl@mail.state.wi.us

Wisconsin Statutes and Code

Copies of the Statutes and Administrative Code Relating to the Practice of Auctioneers and Auction Companies can be ordered from the Department. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated April, 1997.

Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided.

WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.

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